

**MINUTES OF  
FAUQUIER COUNTY BOARD OF ZONING APPEALS  
JUNE 4, 2009**

The Fauquier County Board of Zoning Appeals held its regularly scheduled meeting on Thursday, June 4, 2009, beginning at 2:00 p.m. in the Warren Green Meeting Room, 10 Hotel Street, Warrenton, Virginia. Members present were Mr. John Meadows, Chairperson; Mr. James W. Van Luven, Vice-Chairperson; Mr. Maximilian Tufts, Secretary; Mrs. Sonja Addison; Mr. Serf Guerra; Mrs. Mary North Cooper; and Mr. Harry Russell. Also present were Ms. Mary Catherine Sheridan, Assistant County Attorney; Ms. Kimberley Johnson, Zoning Administrator; Mr. Andrew Hushour, Assistant Zoning Administrator; Mr. Wally Horton, Senior Planner; and Mrs. Fran Williams, Administrative Specialist.

**MINUTES:**

On motion made by Mr. Guerra and seconded by Mr. Tufts, it was moved to approve the May 7, 2009 minutes.

The motion carried unanimously.

**LETTERS OF NOTIFICATION AND PUBLIC NOTICE:**

Mrs. Williams read the Public Hearing protocol. Mr. Horton stated that, to the best of his knowledge, the cases before the Board of Zoning Appeals for a public hearing had been properly advertised, posted, and letters of notification sent to adjoining property owners.

**SPECIAL PERMIT #SPPT09-CR-035, WILLIAM O. & CHRISTINE A. HAYES, ET AL (OWNERS)/STEVE C. BRYANT & DALE LANDRETH (APPLICANTS) – BRYANT’S POWERWASHING**

Applicants are requesting special permit approval to operate a small contracting business as a major home occupation, PIN #7931-17-2097-000, 7931-16-1895-000, and 7931-16-0895-000, located at 9529 Elk Run Road, Cedar Run District, Catlett, Virginia. (Drew Hushour, Staff)

Mr. Hushour reviewed the staff report, a copy of which is attached to and made a part of these minutes.

Mr. Meadows opened the public hearing.

Mr. Steve Bryant, applicant, expressed agreement with the staff report.

In that there were no further speakers, Mr. Meadows closed the public hearing.

On motion made by Mr. Van Luven and seconded by Mr. Russell, it was moved to grant the special permit, after due notice and hearing, as required by *Code of Virginia* §15.2-2204 and Section 5-009 of the Fauquier County Code, based upon the Board's findings:

1. The proposed use will not adversely affect the use or development of neighboring properties and will not impair the value of nearby land.
2. The proposed use is in accordance with the applicable zoning district regulations and applicable provisions of the Comprehensive Plan.
3. Pedestrian and vehicular traffic generated by the proposed use will not be hazardous or conflict with existing patterns in the neighborhood.
4. Adequate utility, drainage, parking, loading, and other facilities are provided to serve the proposed use.
5. Air quality, surface and groundwater quality and quantity will not be degraded or depleted by the proposed use to an extent that would hinder or discourage appropriate development in nearby areas.

The special permit is granted subject to the following conditions, safeguards, and restrictions upon the proposed uses, as are deemed necessary in the public interest to secure compliance with the provisions of this Ordinance:

1. The site shall be in general conformance with the information submitted with the special permit application except as specifically modified by the conditions below or necessary to meet Zoning Ordinance requirements. No buildings shall be constructed under this permit.
2. All activity related to the small contracting business shall be limited to Mondays through Saturdays, between the hours of 8:00 a.m. and 6:00 p.m.
3. No more than five (5) persons, including the owner/applicant, involved in the business shall work from or visit the property.
4. The existing vegetation located around the periphery of the subject property and around the vicinity of the existing dwelling shall be preserved and maintained in order to provide the natural vegetative screening of the site.
5. A site plan is required for the small contracting business prior to commencement of any operations on-site.
6. The permit shall expire on June 4, 2010 and may be renewed pursuant to Section 5-202.10.

The motion carried unanimously.

**SPECIAL PERMIT #SPPT09-LE-036, 2325 18<sup>th</sup> STREET LIMITED PARTNERSHIP (OWNER)/YOON KIM (APPLICANT) – MOUNTAIN KIM MARTIAL ARTS**

Applicant is requesting special permit approval to operate a martial arts studio as an indoor sports/activity complex 25,000 square feet or less, PIN #6899-34-0516-001, located at 11085 Marsh Road, Lee District, Bealeton, Virginia. (Wally Horton, Staff)

Mr. Horton reviewed the staff report, a copy of which is attached to and made a part of these minutes.

Mr. Meadows opened the public hearing.

Mr. Ralph Nussbaumer, representative, expressed agreement with the staff report.

In that there were no further speakers, Mr. Meadows closed the public hearing.

On motion made by Mr. Tufts and seconded by Mr. Van Luven, it was moved to grant the special permit, after due notice and hearing, as required by *Code of Virginia* §15.2-2204 and Section 5-009 of the Fauquier County Code, based upon the following Board findings:

1. The proposed use will not adversely affect the use or development of neighboring properties and will not impair the value of nearby land.
2. The proposed use is in accordance with the applicable zoning district regulations and applicable provisions of the Comprehensive Plan.
3. Pedestrian and vehicular traffic generated by the proposed use will not be hazardous or conflict with existing patterns in the neighborhood.
4. Adequate utility, drainage, parking, loading, and other facilities are provided to serve the proposed use.
5. Air quality, surface and groundwater quality and quantity will not be degraded or depleted by the proposed use to an extent that would hinder or discourage appropriate development in nearby areas.
6. The proposed use is consistent with the general standards for special permits.
7. The BZA finds that soundproofing of the building is unnecessary for this use.

The special permit is granted subject to the following conditions, safeguards, and restrictions upon the proposed uses, as are deemed necessary in the public interest to secure compliance with the provisions of this Ordinance:

1. The site shall be in general conformance with the information and drawings submitted with the special permit application except as specifically modified by the conditions below or necessary to meet Zoning Ordinance requirements.

2. The proposed use is limited to exercise and instruction in the Martial Arts.
3. Site Plan and Building Permits are required.
4. The soundproofing requirement is waived.

The motion carried unanimously.

**SPECIAL PERMIT #SPPT09-CR-032, FRANCES JANE HINEGARDNER (OWNER/APPLICANT) – J & J PRODUCE**

Applicant is requesting special permit approval to operate a farmer's market, PIN #7900-33-0307-000, located at 5424 Catlett Road, Cedar Run District, Midland, Virginia. (Wally Horton, Staff)

Withdrawn.

**SPECIAL PERMIT #SPPT09-MA-037, WHITING INDUSTRIAL, LLC (OWNER/APPLICANT) – WHITING ROAD, LOT 2**

Applicant is requesting special permit approval to operate a contractor's office, shop, and material storage yard, PIN #6979-38-0570-000, located on the west side of Whiting Road (Route 622), Marshall District, Marshall, Virginia. (Wally Horton, Staff)

Mr. Horton reviewed the staff report, a copy of which is attached to and made a part of these minutes.

Mr. Meadows opened the public hearing.

Mr. Charles Floyd, representative, expressed agreement with the staff report.

In that there were no further speakers, Mr. Meadows closed the public hearing.

On motion made by Mr. Russell and seconded by Mr. Van Luven, it was moved to grant the special permit, after due notice and hearing, as required by *Code of Virginia* §15.2-2204 and Section 5-009 of the Fauquier County Code, based upon the following Board findings:

1. The proposed use will not adversely affect the use or development of neighboring properties and will not impair the value of nearby land.
2. The proposed use is in accordance with the applicable zoning district regulations and applicable provisions of the Comprehensive Plan.
3. Pedestrian and vehicular traffic generated by the proposed use will not be hazardous or conflict with existing patterns in the neighborhood.

4. Adequate utility, drainage, parking, loading, and other facilities are provided to serve the proposed use.
5. Air quality, surface and groundwater quality and quantity will not be degraded or depleted by the proposed use to an extent that would hinder or discourage appropriate development in nearby areas.
6. The proposed use is consistent with the general standards for special permits.

The special permit is granted subject to the following conditions, safeguards, and restrictions upon the proposed uses, as are deemed necessary in the public interest to secure compliance with the provisions of this Ordinance:

1. The site shall be in general conformance with the information and drawings submitted with the special permit application except as specifically modified by the conditions below or necessary to meet Zoning Ordinance requirements.
2. Hours of operation at the site will be between the hours of dawn and dusk, Monday through Saturday.
3. The special permit shall expire in two (2) years from the date of approval of the special permit.
4. A Site Plan is required for this use.

The motion carried unanimously.

**SPECIAL PERMIT #SPPT09-CR-038, JAIME ZAMBRANA & MARIA L. MENDEZ (OWNERS/APPLICANTS) – J. W. APPLICATORS, LLC**

Applicants are requesting special permit approval to operate a small contracting business as a major home occupation, PIN #7837-07-6714-000, located at 3158 Midland Road, Cedar Run District, Midland, Virginia. (Drew Hushour, Staff)

Mr. Hushour reviewed the staff report, a copy of which is attached to and made a part of these minutes.

Mr. Meadows opened the public hearing.

Mr. Jaime Zambrana, applicant, expressed agreement with the staff report.

Board members inquired about the applicant's request for Sunday hours.

Mr. Zambrana stated that he is requesting occasional (approximately five times per year) Sunday hours so that he can load his material and be ready to leave for a job site on Monday morning. Mr. Zambrana clarified that when he does work on Sunday, it will only be between the hours of 11:00 a.m. – 3:00 p.m.

Mr. Guerra expressed concern about large trucks making deliveries to the property since there was an incident where one tractor trailer was stuck and blocked the road for some time.

Mr. Zambrana stated that this was a personal delivery and it is the only time a large truck has been stuck while delivering to his property.

Mr. Meadows asked the applicant if he is aware that the Virginia Department of Transportation will require him to install a larger entrance.

Mr. Zambrana stated that he is aware of this and is willing to comply.

Ms. Nancy Greene, a neighbor, spoke in opposition to the granting of this special permit. Ms. Greene expressed concern about past and present violations at the property; large trucks coming to the property; the frequency of use; noise; and the potential environmental impact on properties in the area. Ms. Greene presented the Board with a statement, a copy of which is attached to and made a part of these official minutes, outlining her concerns.

Mr. Ben Nichols, a neighbor, spoke in opposition to the granting of this special permit. Mr. Nichols expressed concern about noise, the large trucks on the road, and the safety of children in the area. Mr. Nichols presented the Board with a statement, a copy of which is attached to and made a part of these official minutes, outlining his concerns.

Mrs. Debbie Dotson, a neighbor, expressed concern about safety and stated that an ambulance called for a shooting victim had to be re-routed while the tractor trailer was jack-knifed across the road.

Mrs. Teresa Nichols spoke in opposition to the granting of this special permit. Mrs. Nichols stated that the lives of her family and neighbors have been totally disrupted by having this business in their residential area.

Mr. Guerra stated that this type of business would be best suited for an Industrial or Commercial zoned property.

After a brief recess, Mr. Meadows adjourned the public hearing in that there were no further speakers.

After discussion, on motion made by Mrs. Cooper and seconded by Mr. Guerra, it was moved to postpone action on this item until the next regularly scheduled meeting, with the public hearing left open.

The motion carried unanimously.

**SPECIAL PERMIT #SPPT09-CR-039, MT. CARMEL BAPTIST CHURCH, TRUSTEES (OWNERS/APPLICANTS) – MT. CARMEL BAPTIST CHURCH**

Applicants are requesting special permit approval to construct an addition to an existing place of worship, PIN #7817-96-8336-000 and 7817-96-6101-000, located at 12714 Elk Run Road and 12734 Elk Run Road, Cedar Run District, Midland, Virginia. (Wally Horton, Staff)

Mr. Horton reviewed the staff report, a copy of which is attached to and made a part of these minutes.

Mr. Meadows opened the public hearing.

Mr. John James, representative, expressed agreement with the staff report.

Reverend Peyton Embrey, Pastor, stated that the congregation considered building a new church, but the addition appears to be the only viable option.

In that there were no further speakers, Mr. Meadows closed the public hearing.

On motion made by Mr. Guerra and seconded by Mr. Tufts, it was moved to grant the special permit, after due notice and hearing, as required by *Code of Virginia* §15.2-2204 and Section 5-009 of the Fauquier County Code, based upon the following Board findings:

1. The proposed use will not adversely affect the use or development of neighboring properties and will not impair the value of nearby land.
2. The proposed use is in accordance with the applicable zoning district regulations and applicable provisions of the Comprehensive Plan.
3. Pedestrian and vehicular traffic generated by the proposed use will not be hazardous or conflict with existing patterns in the neighborhood.
4. Adequate utility, drainage, parking, loading, and other facilities are provided to serve the proposed use.
5. Air quality, surface and groundwater quality and quantity will not be degraded or depleted by the proposed use to an extent that would hinder or discourage appropriate development in nearby areas.
6. The proposed use is consistent with the general standards for special permits.

The special permit is granted subject to the following conditions, safeguards, and restrictions upon the proposed uses, as are deemed necessary in the public interest to secure compliance with the provisions of this Ordinance:

1. The site shall be in general conformance with the information and drawings submitted with the special permit application except as specifically modified by the conditions below or as necessary to meet Zoning Ordinance requirements.
2. Aside from worship, all uses and activities shall be clearly incidental and subordinate to the primary use as a place of worship. No schools (other than Sunday School and Vacation Bible School), day care facilities, or athletic facilities shall operate on-site as part of the church without separate approval and amendment to this special permit.
3. No more than 320 attendees shall be allowed for the Sunday service.
4. Existing front yard trees and other vegetation shall be preserved to the maximum extent possible. Landscaping in front of the additions to further enhance the appearance of the site and surrounding rural area shall be required. Specifics shall be as determined by the Zoning Administrator as part of the site plan.
5. Prior to any additional approvals, including the site plan, applicable building permits must be obtained for the 1,600 square foot addition approved in 1983.
6. The Applicant shall apply for an Administrative Modification from front setback requirements; no addition shall be allowed if the modification is not granted.
7. All requirements of the Virginia Department of Transportation shall be complied with.
8. The Church shall hire an AOSE to examine the site of the existing drainfield, ascertain whether it is sized appropriately, and identify appropriate additional facilities to the extent such are required. This work shall be completed prior to submission of a site plan.
9. In the event that the area available on the church property is insufficient for required septic system improvements, the two properties shall be combined in order to allow use of the parsonage property for septic purposes.
10. A site plan is required for this use.
11. A period of five (5) years shall be granted to obtain site plan approval.

After discussion, on motion made by Mr. Van Luven and seconded by Mr. Tufts, it was moved to delete Condition #3, as follows:

~~3. — No more than 320 attendees shall be allowed for the Sunday service.~~

The motion carried unanimously, as amended.



**OTHER BUSINESS:**

None.

**ADJOURNMENT:**

There being no further business, the meeting was adjourned at 3: 23 p.m.

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John R. Meadows, Chairperson

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Maximilian A. Tufts, Jr., Secretary

*Copies of all files and materials presented to the BZA are attached to and become a part of these minutes. A recording of the meeting is on file for one (1) year.*